



Minutes of the WestWorld Subcommittee
October 10, 2005, 8:00 a.m.

Members Present: Subcommittee Chair Wayne Ecton
Council Member Betty Drake
Councilman Ron McCullagh

City Staff Present: Roger Klingler, Assistant City Manager
Brad Gessner, WestWorld General Manager
Kelly Ward, Senior Assistant City Attorney
Dan Worth, City Engineer
Michelle Korf, The Downtown Group
Gloria Storms Ruiz, WestWorld Administrative Secretary

Call to order at 8:00 a.m.

Approved minutes from June 9, 2005 meeting: Motion was made by Committee Member Drake, seconded by Committee Member McCullagh, with no objections.

2. WestWorld CIP Update – Dan Worth

This process began with City Council approval in April 2005, to move forward with WestWorld improvements and, as of September 2005, it is almost complete.

The *Polo Field* drainage is complete, as are the asphalt strips on the east end. There is a small “punch list” in progress for the Polo Field that will be completed very soon.

The *Multi-Use Tent* is up and was in use this past weekend. The City is exploring pricing for new skins, doors, and a transition panel, that would connect our tent to the Barrett Jackson tent. The probable color combination will be a sandstone exterior with a black interior liner. The black liner is a necessity for television production.

The *north road re-alignment* is finished and the *landscaping* is being installed at this time.

The site of the future *Multi-Purpose building pad* is complete. 117,000 cubic yards of dirt were moved to bring the pad to the proper grade. There are *new RV pedestals* in Lot G, and a DG surface was installed in Lot G.

Fabric cover tents over *Arenas 3 & 5A* are finished, complete with lights and ventilation. On a hot day, it can be 15 degrees cooler under these covers.

Arenas 6, 7, & 8 have been relocated south of the Equidome and are complete. The *Show Office*, which opened last Thursday, has a “punch list” in progress that will be completed as soon as possible.

Fill dirt from the east side of the park (referred to as *The Borrow Pit*,) was used to raise the grade for the pad of the Multi-Purpose building, which created another potential parking area for over-flow and trailer parking.

Committee Member McCullagh asked what the life of the large tent skin is, and what the total cost of the tent has been. Dan Worth replied that, if cared for properly, the skin life is between five and seven years. Because it is used, and has been put up and taken down four times, there is some wear showing. The total cost of the tent so far has been \$4,000,000: \$1.8 million for the tent, \$1.7 million to erect the tent, and the balance for maintenance issues, including making the tent watertight.

Committee Member Drake said that she has had several emails regarding the flag on the side of the tent. She figures the favorable opinions are running 6 to 1 to keep the flag on the tent. She also stated that after speaking with Barbara Dietz, Show Manager, Scottsdale Classic, that everyone is very happy with the new improvements to WestWorld. The participants of the Hunter Jumper Show, held last week, are also very happy with the covered arenas. The Hunter Jumper users would like to have more trees near the arenas for shade while waiting to show their horses. This is a possibility that will be researched.

Committee Member McCullagh asked if there are any plans to strike and set-up the tent in the future. Roger Klingler stated, that possibly, the tent skins would come down for cleaning, but not the tent ribs. Brad Gessner said he is researching a company that claims they are able to clean the skins without taking them down. Committee Chair Ecton stated that the maintenance would have to be scheduled around the events so as not to disrupt upcoming shows.

Mr. Ray Roles, co-owner of the Scottsdale Classic Quarter Horse Show, addressed the committee regarding the upgrades. He thanked the Committee Members for their vision and commitment to WestWorld. Referring to the covered Arenas 3 & 5a, he stated it is “unbelievable” to have such a fine facility with shade and fans for the comfort of the participants. With these improvements, he felt the Council had saved three of the largest horse shows in the country from leaving Scottsdale; shows that bring in over \$100 million in economic impact to the region. He anticipates that next year’s Scottsdale Classic will grow between 20 and 30% because of these improvements.

Ms. Kay Lorenzon, Dressage Association, also addressed the committee regarding the upgrades. She stated that she is looking forward to her show in November because of the upgrades. She also asked if the pricing structure would be changing because of the upgrades.

Brad Gessner stated that, at this time, the pricing structure would remain the same. He said that every year, the COS Finance Department does a rate and fee study analysis to determine whether to recommend any rate increases. He stated, there have been no rate increases in two years.

Roger Klingler said he would like to recognize Corey Lew, Dan Worth, and staff for all the hard work it took to pull this construction project together. He also wanted to recognize the hard work of Hunt Construction Group, Sun Eagle, and J. E. Dunn for their participation in the projects. Dan Worth mentioned Western Water Works should also be commended for a job well done with the water distribution improvements.

Committee Chair Ecton stated that it was nice to see construction projects come in on time.

3. Horse boarding/permanent stabling – Brad Gessner

Mr. Gessner said a private citizen had approached him regarding a horse boarding concession at WestWorld. He stated that although this is part of the Master Plan, at this time there are no facilities in which to permanently board horses. There are 24 pipe stalls in the Mare Motel, which are being used until December 2005 by the COS Mounted Police Unit to board their horses, and to board the Bison Ranch Perchurons until April 2006. However, he felt the Mare Motel is not well suited for permanent stabling.

Committee Member Drake agreed the Mare Motel is not conducive to permanent boarding. She said, after visiting the Los Angeles Equestrian Center, permanent boarding is a good money maker for a venue because horse people are willing to pay a premium for a good facility with arenas, near riding trails, and close to the City. She indicated she hoped we could offer this in the future.

Committee Chair Ecton agreed with these comments. He also toured the Los Angeles Equestrian Center and said the trainers really appreciate having a venue close to them, with arenas where they can train their horses.

4. Food & Beverage – Legal and Accounting – Kelly Ward

INTRODUCTION

At its June 9, 2005, meeting, the WestWorld Subcommittee inquired about the contract terms that allow the city to buy out the Monterra restaurant operation at WestWorld. This summarizes the contract provisions regarding that topic.

CONTRACT BACKGROUND

WestWorld, including the Monterra restaurant, is located on land owned by BOR and operated by the city under a contract with BOR. There are two agreements that directly affect the Monterra restaurant:

1. In December 1996, the city entered into an agreement with Pegasus to operate the restaurant. Pegasus' rights are now held by National Western Capital Corporation. This agreement is sometimes called the "restaurant lease", although, technically, the agreement is a license, and not a lease.
2. At the same time, Pegasus entered into an agreement with Big Four to operate the restaurant. This agreement is sometimes called the "restaurant sublease", although, technically, the agreement is a sublicense, and not a sublease.

LEASE TERMINATION PROVISIONS

The lease runs for the duration of the city's agreement with BOR (including extensions). (The BOR agreement runs to 2032, with a mutual extension provision to 2057.) However, paragraph 8.2 of the lease allows the city to terminate the agreement at any time by making a \$2,000,000 payment. This payment is sometimes called the "buyout payment." The first sentence of paragraph 8.2 is as follows:

Licensor [i.e., the City] shall have an additional irrevocable and unconditional right at any time to terminate this Agreement which right is exercisable in Licensor's sole and absolute discretion by giving to Licensee notice of Licensor's election to terminate this Agreement. If Licensor exercises such election, Licensor shall pay to the Licensee the amount of \$2,000,000.

According to these two sentences, upon the City's payment of \$2,000,000 to National Western Capital, the agreement will terminate and the tenant will no longer have the right to occupy the restaurant. At that point, so far as this part of the contract is concerned, the city is free to operate the restaurant itself, find another restaurant operator, close the restaurant, etc.

However, paragraph 8.2 goes on to say that, if there is a sublease in effect at the time the city pays the \$2,000,000, then the city must honor the sublease and allow the sublessee to continue to operate the restaurant. That means that, when the lease terminates, the city steps into National Western Capital's shoes and the sublease automatically becomes a lease directly between the city and Big Four. The city is the landlord under the lease and Big Four is the tenant. The city has to honor the resulting lease until it expires. Big Four has to pay rent to the city at the rate specified in the sublease. (Rent under the sublease is \$171,200 per year, plus eight percent of gross sales over \$2,300,000.)

SUBLEASE TERMINATION PROVISIONS

The sublease also has termination provisions. They are in paragraph II(a)(C), which says:

Beginning the second (2nd) year of this Agreement through the end of the Term [December 31, 2011], if Big 4 does not have at least Two Million Three Hundred Thousand Dollars (\$2,300,000) in Gross Sales and Revenue during each twelve

(12) month period, beginning January 1st of each year, either party may terminate this Agreement without penalty on December 31 of the applicable year. If a party desires to so terminate this Agreement, it shall give the other ninety days' written notice of termination.

So, if the city bought out the lease, and stepped into National Western Capital's shoes as the landlord under the sublease, then the city would have the termination right under that paragraph.

PURCHASE STRATEGIES

Brad Gessner reports that the restaurant sales are consistently below the \$2,300,000 threshold stated in paragraph II(a)(C) of the sublease. Therefore, it appears that the city would have the right to terminate the lease by making the \$2,000,000 payment under paragraph 8.2 of the lease, and then terminate the sublease by giving the notice stated in paragraph II(a)(C) of the sublease.

As you can see, paragraph II(a)(C) of the sublease is possibly helpful to the city, because its termination clause provides an exception to the obligation the city would otherwise have to allow Big Four to continue to operate the restaurant for the remaining period of the sublease.

On December 31, 2011, the sublease will expire (if it has not previously been terminated as set out above). At that time, National Western Capital could enter into a new sublease that did not contain such a termination clause or that contained other provisions unfavorable to the city. If that were to occur, the city would have a right under paragraph 8.2.1 of the lease to immediately terminate the lease by paying the \$2,000,000, thus avoiding the obligation to honor the new unfavorable sublease.

CONCLUSION

The city has the ability to control the restaurant by making a \$2,000,000 payment to National Western Capital. The city could choose from these alternatives:

1. Continue the status quo by allowing the existing lease and sublease to remain in effect.
2. Pay National Western Capital \$2,000,000 to terminate the lease, and allow Big Four to continue to operate and pay rent to the city under the sublease.
3. Pay National Western Capital \$2,000,000, and give Big Four a notice terminating the sublease.

5. Public Art – Margaret Brunning/Michelle Korf

Margaret Brunning, Associate Director, Scottsdale Public Art Program, spoke about what the process would be like in choosing art for WestWorld. This process would begin with

a CTA (Call to Artists) based upon qualifications. This would not necessarily include commissioning artwork from the artist. The artist would be included in the project team that would determine the best place and use of public art at WestWorld. She stated that this becomes a fluid process working hand in hand with designers. The project team would consist of a volunteer selection panel and members of the public art board.

Ms. Brunning stated that WestWorld has a unique identity and the art should bolster that equestrian identity. The art also must be sensitive to the project and the community.

Committee Chair Ecton asked when the budget issue would be addressed. Ms. Brunning answered, there would be a “not to exceed amount” in the CTA, in addition to a scope of work and a description of how the artist will be involved.

Committee Member Drake asked what would trigger the process. Roger Klingler said it would be the designing of the Multi-Purpose Facility and could begin as soon as this fall. She also asked if the Subcommittee would be allowed any input and Ms. Brunning stated that the input would be “informational only.”

6. Review of upcoming events – Brad Gessner

Mr. Gessner stated that WestWorld would again exceed the number of events over the previous year for the fourth year running. The event season is in full swing, beginning with the Appaloosa Horse Show and the Cactus Classic Hunter Jumper Show. The Scottsdale Classic Quarter Horse Show is currently showing on the east half of the grounds and will continue through October 15. A new event for WestWorld, the East Meets West 2005 (biker build off), is the first event to use the new multi-purpose tent structure. The next tent event is the Scottsdale Home and Interior Show, which is followed next month by another dmj World Media event, The Holiday Originals Show; both new shows at WestWorld.

7. Master Plan implementation status – Roger Klingler

Roger Klingler, Assistant City Manager, stated that many of the changes/improvements recommended in the Master Plan were accomplished this summer, and the City is implementing the projects as proposed, with few exceptions. The exceptions include using fabric covers for the Arenas instead of hard covers, not covering the Wendell Arena, but instead improving the drainage, and using strips of asphalt on the Polo Field East, instead of “hardscaping” the entire area.

Mr. Klingler said that because purchasing the state land adjacent to WestWorld was recommended, but not budgeted for in the Master Plan, the COS Finance Department would be working on how to budget the construction of the new Multi-Purpose building. The cost of acquiring the state land may influence when this project moves forward. Utilizing the tent structure instead of constructing the permanent building may be a consideration.

Committee Chair Ecton agreed that the urgency for parking space might push the building of the Multi-Purpose facility further into the future. He stated, they need more information on the debt structure and the cost of the new hall.

Committee Member Drake suggested addressing this issue again after WestWorld has completed a full show season. She also suggested a possible work session be done in the future in regard to the Multi-Purpose building.

Public Comments: Committee Chair Ecton asked for public comments; there were none.

Meeting was adjourned at 8:45 a.m.

Respectfully submitted,

Gloria Storms Ruiz

Gloria Storms Ruiz
Subcommittee Secretary